

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF NORTH CAROLINA  
WESTERN DIVISION  
Case No.: 5:11-cv-354

K.C. et al., individually and on behalf of all  
others similarly situated,

Plaintiffs,

v.

LANIER CANSLER, in his official capacity  
as Secretary of the Department of Health and  
Human Services, et al.,

Defendants.

**MOTION FOR PRELIMINARY  
INJUNCTION**

Plaintiffs move the Court, individually and on behalf of all others similarly situated, for a preliminary injunction to enjoin Defendants from reducing or terminating the waiver services of the named plaintiffs and others similarly situated without notice or the opportunity for a hearing. The reasons for this motion are set forth fully in the attached Memorandum of Law, Affidavits and Declarations, which show that:

1. Plaintiff Alison Taylor Johns has been informed by Defendant PBH since the filing of this lawsuit that she must sign a new plan of care agreeing to significant reductions in her services or that *all* of her services will stop no later than October 31, 2011. She seeks a preliminary injunction to prevent Defendants from terminating or reducing her services until she is first provided with due process or until this Court rules on her request for a permanent injunction.
2. Defendants reduced the remaining named Plaintiffs' services effective July 1, 2011 and intend to further reduce their services effective January 1, 2012, in both cases without notice or hearing rights. These plaintiffs seek a preliminary injunction to restore their services to the level authorized on June 30, 2011, the day before the filing of this lawsuit, and to prevent further reductions in their services, pending a final ruling by this Court or until they are provided with due process.

3. Plaintiffs are already suffering or are imminently threatened with irreparable harm unless the activities of the Defendants are temporarily enjoined.
4. The actions of the Defendants, as proven by the attached documents, plainly violate the Medicaid Act and the Due Process Clause of the United States Constitution.
5. By Defendant PBH's admission, at least one hundred sixty persons are similarly situated to the named Plaintiffs. Two of those proposed plaintiff class members have provided evidence that they are suffering or threatened with irreparable harm. Plaintiffs will very shortly be filing a motion for class certification and herein seek preliminary relief on behalf of all similarly situated persons.

WHEREFORE, Plaintiffs move the Court to:

- A. Preliminarily enjoin Defendants and their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, from reducing or terminating Medicaid services to the named plaintiffs and all others similarly situated under the N.C. Innovations Waiver based on budget limits under the Support Needs Matrix until Defendants first provide advance notice and the opportunity for a fair hearing prior to the reduction or termination of services.
- B. Order Defendants to reinstate the level of services authorized prior to July 1, 2011 to Plaintiffs and all others similarly situated until the Court issues a final ruling.
- C. Waive any requirement for security on the part of the plaintiffs.
- D. Schedule for as soon as practicable a hearing on this motion.

Dated: August 24, 2011

ATTORNEYS FOR PLAINTIFFS

/s/ Douglas S. Sea  
Douglas Stuart Sea  
N.C. State Bar No. 9455  
LEGAL SERVICES OF SOUTHERN PIEDMONT, INC.  
1431 Elizabeth Avenue

Charlotte, North Carolina 28204  
Telephone: (704) 376-1600  
[dougs@lssp.org](mailto:dougs@lssp.org)

/s/ John R. Rittelmeyer  
John R. Rittelmeyer  
N.C. State Bar No. 17204  
Jennifer L. Bills  
N.C. State Bar No. 37467  
DISABILITY RIGHTS NC  
2626 Glenwood Avenue, Suite 550  
Raleigh, NC 27608  
Phone: (919) 856-2195  
Fax: (919) 856-2244  
[john.rittelmeyer@disabilityrightsn.org](mailto:john.rittelmeyer@disabilityrightsn.org)  
[jennifer.bills@disabilityrightsn.org](mailto:jennifer.bills@disabilityrightsn.org)

/s/ Jane Perkins  
Jane Perkins  
N.C. State Bar No. 9993  
Jina Dhillon  
N.C. State Bar No. 41997  
NATIONAL HEALTH LAW PROGRAM  
101 E. Weaver Street, Ste. G-7  
Carrboro, NC 27510  
Telephone: (919) 968-6308  
[perkins@healthlaw.org](mailto:perkins@healthlaw.org)